

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

BUILDING CODE APPEALS BOARD  
DOCKET NO.: 10-955

\_\_\_\_\_  
Rosario Armano,  
Appellant

v.

\_\_\_\_\_  
City of Haverhill,  
Appellees

**BOARD'S RULING ON APPEAL**

**Introduction**

This matter came before the State Building Code Appeals Board ("Board") on appellant's appeal filed pursuant to G.L. c.143, §100 and 780 CMR 122.1. In accordance with 780 CMR 122.3 the appellant petitioned the Board to grant a variance to the Seventh Edition of the Massachusetts State Building Code ("Code"). For the following reasons, the appeal is hereby **GRANTED with conditions**.

The appellant requested that the Board grant a variance to 780 CMR Sections 1008.1.8.8 and 105 CMR 410.480. The appellant appeared for the hearing *pro se*. No City official was present but the Health Inspector for the City of Haverhill submitted an email stating no objection to granting the variances requested. All witnesses were duly sworn.

**Procedural History**

The Board convened a public hearing on December 2, 2010, in accordance with G.L.c. 30A, §§10 & 11; G.L.c. 143, §100; 801 CMR 1.02; and 780 CMR 122.3. All interested parties were provided with an opportunity to testify and present evidence to the Board.

**Findings of Fact**

The facts of this matter are largely not in dispute. Instead, this matter turns on the review of the applicable provisions of the State Building Code. The Board bases the following findings upon the testimony presented at the hearing. There is substantial evidence to support the following findings:

1. The property at issue is located at 44 White St., Haverhill, MA.
2. The appellant has owned the building for 22 years.
3. The front door and locks have never been changed.
4. The property has 6 units, 1 in back which does not use the front door.
5. The property is 3 stories high, with 1 unit on the first floor and 2 on the second and third floors.
6. All tenants have a key.
7. There are 5 doorbells on the front.

8. The front door is always locked and locks automatically upon closing via a spring mechanism.

### **Analysis**

#### **A. Jurisdiction of the Board**

There is no question that the Board has jurisdiction to hear this case. The governing statute provides that:

Whoever is aggrieved by an interpretation, order, requirement, direction or failure to act by any state or local agency or any person or state or local agency charged with the administration or enforcement of the state building code or any of its rules and regulations, except any specialized codes as described in section ninety-six, may within forty-five days after the service of notice thereof appeal from such interpretation, order, requirement, direction, or failure to act to the appeals board. G.L. c.143, §100.

The issues giving rise to this matter directly implicate provisions of the Code. As such, this Board has jurisdiction to decide this case pursuant to G.L. c. 143, §100.

#### **B. State Building Code requirements**

The issue is whether to grant a variance to 780 CMR 1008.1.8.8 and 105 CMR 410.480 which require a striker mechanism for the lock on the front door of this apartment building. The relevant provisions of the regulations state, “In accordance with M.G.L. c. 143, § 3R, at least one of the doors of the main common entryway into every apartment house having more than three apartments shall be designed or equipped as to close automatically and lock automatically with a lock, including a lock with an electrically-operated striker mechanism, a self-closing door and associated equipment...” 780 CMR 1008.1.8.8. and “The owner shall provide, install and maintain locks so that...(C) The main entry door of a dwelling containing more than three dwelling units shall be so designed or equipped so as to close and lock automatically with a lock, including a lock with an electrically-operated striker mechanism, a self-closing door and associated equipment...” 105 CMR 410.480.

The appellant testified that this appeal arose after an inspector from the Board of Health came to give him an occupancy certificate for the first floor apartment and noticed the door had no striker mechanism.

The appellant asserted that the door is always locked, it is an old, heavy Victorian door which would be difficult to replace, that it is an automatically locking door and that installing a striker mechanism in his belief would not make the apartment any safer.

The City Health Inspector submitted an email stating no opposition to the variances. There was no communication and no one was present from the City Building Department.

So long as the appellant contacts the City Building Department to view the locks and because there are existing doorbells, the variance may be granted.

### **Conclusion**

A motion was made by Jacob Nunnemacher and seconded by Ralph Cirelli to **Grant** the variance to 780 CMR Sections 1008.1 and 105 CMR 410.480 based on the fact that the City health inspector has no opposition to it and because the building owner has existing doorbells for each unit but **contingent upon** the building owner contacting the local building official to look at the exit locking arrangements.

---

Jacob Nunnemacher

---

Jeffrey Putnam

---

Ralph Cirelli

*Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to Superior Court in accordance with G.L. c.30A, §14 within 30 days of receipt of this decision.*

DATED: January 20, 2011